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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/801,857      | 03/17/2004  | Heinz Meurs          | SWR-0133            | 1967             |

23413 7590 03/27/2007  
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| EXAMINER |
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KEENAN, JAMES W

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| ART UNIT | PAPER NUMBER |
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3652

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 03/27/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/801,857

Applicant(s)

MEURS ET AL.

Examiner

James Keenan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 7-14 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/16/04, 7/29/04</u>  | 6) <input type="checkbox"/> Other: _____                          |

1. Applicant's election of Group I in the reply filed on 2/6/07 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 7-14 and 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/6/07.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

4. The disclosure is objected to because of the following informalities: on page 8, several element numerals are used to denote more than one element, while in other cases, an element is denoted by more than one numeral. For example, element numeral 9 denotes both "rails" (p. 7) and a "rack", numeral 11 is used to denote both a "portal" and a "clamp", numeral 6 denotes a "converter" and an "electric motor", and numeral 2 denotes both "treatment" and "transport" chambers. On the other hand, the

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"carriage" is denoted by numerals 2 and 3, while the "rack" is denoted by numerals 7 (p. 7) and 9.

On page 11, line 4, the reference to numeral "58" should apparently be --50a--.

Appropriate correction is required, including the drawings, if necessary.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-6 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 2-3, it is not clear what is meant by "a transport direction";

line 3, it is not clear if "that is movable ..." refers to the rack or the transport device;

and line 4, the term "float-mounted" is vague and fails to set forth any particular structural limitation.

In claim 3, --each-- should be inserted after "elements".

In claims 4 and 5, "the" (line 1) should be --each--.

In claim 4, it is not clear if one or two locking plates are being claimed. Although it seems as though two are, claim 15 refers to a single "locking plate".

In claim 5, "is" should be deleted.

In claim 6, --at least one-- should be inserted before "liner".

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7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Loomer et al (US 4,746,258).

Loomer shows a floating table for a guided vehicle 50 (carriage) which is movable transverse to a “transport direction”, as broadly and indefinitely claimed, and a base plate 62 (rack) for carrying article carrier 64 (transport device), wherein the transport device is “float-mounted”, as broadly claimed, relative to the carriage, by virtue of table mounting structures 66. Although the articles are not explicitly disclosed as metallic workpieces undergoing heat treatment, it is noted that rather than a positive recitation, this is merely a statement of intended use for which the apparatus of Loomer could clearly be utilized, without modification, and thus the reference meets all positively recited structural limitations. Note that deck 52 could alternatively be considered the rack, and the entire article carrying assembly 60 could be the transport device, since the claim does not clearly require the rack to be movable relative to the carriage.

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9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 1 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Muller-Ziller et al (US 6,749,800) in view of Loomer.

Muller-Ziller shows a device for transporting metallic workpieces during heat treatment comprising transport device 10, carriage 70 movable transverse to a transport direction, and rack 30 for carrying the transport device which is movable relative to the carriage, wherein the transport device is "float-mounted", as broadly and indefinitely claimed, relative to the carriage, via rails 32.

Alternatively, if it is determined that the rails do not constitute a float-mounting (or the claims are amended to more clearly define this limitation), it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Muller-Ziller by float-mounting the transport device relative to the carriage, as shown by Loomer, as this would provide a passive means of finely aligning the transport device at the workstation, and would therefore be simpler than Muller-Ziller's active system which requires a separate movement means for alignment.

12. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller-Ziller et al alone or in view of Loomer et al, as applied to claim 1 above, and further in view of Mills et al (US 4,461,455).

Muller-Ziller, alone or in view of Loomer, does not show the float-mounting to comprise elastic bearing elements between the transport device and rack.

Mills shows a transport device for fine-positioning an article, wherein an upper platform 20 for carrying an article to be positioned is float-mounted relative to lower platform 22 by rubber bellows 120-126 to provide a precise positioning of the article.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Muller-Ziller, alone or as modified by Loomer, by utilizing elastic bearing elements as the means of float-mounting the transport device, as shown by Mills, as this would provide improved alignment and positioning of the article at the work station.

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13. Claims 4-6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller-Ziller et al in view of Mills et al, or over Muller-Ziller et al in view of Loomer et al and Mills et al, as applied to claims 2-3 above, and further in view of Bourgeot (US 5,271,678) or Natsubori et al (US 6,235,400).

Muller-Ziller as modified above does not show the elastic bearing elements to comprise metal locking plates on the rack and transport device sides of a molded rubber element with an additional metal liner plate, wherein the liner and locking plates are vulcanized in the molded element.

Both Bourgeot and Natsubori show elastic bearing elements comprising (referring to Natsubori, and to Bourgeot in parentheses) a molded rubber element 16 (7), metal locking plates 18, 20 (4, 8) on opposite sides of the element for attachment thereof between two structures which are to be float-mounted in relation to each other, and at least one metal liner plate 14 (6), wherein both the liner and locking plates are vulcanized in the molded element.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Muller-Ziller by utilizing the specific type of molded rubber bearing element described above as the means of float-mounting the transport device, as both Bourgeot and Natsubori show this type of bearing structure is well known as a means of float-mounting two structures relative to each other, the use of which in the Muller-Ziller device would require no undue experimentation and produce no unexpected results.



14. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loomer et al in view of Mills et al.

Loomer does not show the float-mounting to comprise elastic bearing elements between the transport device and rack.

Mills, as noted above, shows a transport device for fine-positioning an article, wherein an upper platform for carrying an article to be positioned is float-mounted relative to a lower platform by rubber bellows to provide a precise positioning of the article.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Loomer by utilizing elastic bearing elements as the means of float-mounting the transport device, as shown by Mills, as this would provide improved alignment and positioning of the article at the work station.

15. Claims 4-6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loomer et al in view of Mills et al, as applied to claims 2-3 above, and further in view of Bourgeot or Natsubori et al.

Loomer as modified above does not show the elastic bearing elements to comprise metal locking plates on the rack and transport device sides of a molded rubber element with an additional metal liner plate, wherein the liner and locking plates are vulcanized in the molded element.

Both Bourgeot and Natsubori, as noted above, show elastic bearing elements comprising a molded rubber element, metal locking plates on opposite sides of the

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element for attachment thereof between two structures which are to be float-mounted in relation to each other, and at least one metal liner plate, wherein both the liner and locking plates are vulcanized in the molded element.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Loomer by utilizing the specific type of molded rubber bearing element described above as the means of float-mounting the transport device, as both Bourgeot and Natsubori show this type of bearing structure is well known as a means of float-mounting two structures relative to each other, the use of which in the Loomer device would require no undue experimentation and produce no unexpected results.

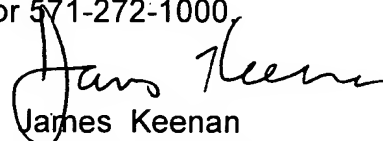
16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on 571-272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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James Keenan  
Primary Examiner  
Art Unit 3652

jwk  
3/19/07